

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SASA MASLIC, et al.

Plaintiffs,

VS.

ISM VUZEM d.o.o., et al.

Defendants.

| Case No. 5:21-cv-02556-BLF

STIPULATED PROTECTIVE ORDER
FOR LITIGATION INVOLVING
HIGHLY SENSITIVE CONFIDENTIAL
INFORMATION AND TRADE
SECRETS

1. PURPOSES AND LIMITATIONS

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, Plaintiffs and Defendants Eisenmann Corporation and Tesla, Inc. hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order does not entitle them to file confidential information under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal.

1 2. DEFINITIONS

2 2.1 Challenging Party: a Party or Non-Party that challenges the designation of
3 information or items under this Order.

4 2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is
5 generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of
6 Civil Procedure 26(c).

7 2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as well
8 as their support staff).

9 2.4 Designating Party: a Party or Non-Party that designates information or items that it
10 produces in disclosures or in responses to discovery as “CONFIDENTIAL” or “HIGHLY
11 CONFIDENTIAL – ATTORNEYS’ EYES ONLY”.

12 2.5 Disclosure or Discovery Material: all items or information, regardless of the
13 medium or manner in which it is generated, stored, or maintained (including, among other things,
14 testimony, transcripts, and tangible things), that are produced or generated in disclosures or
15 responses to discovery in this matter.

16 2.6 Expert: a person with specialized knowledge or experience in a matter pertinent to
17 the litigation who (1) has been retained by a Party or its counsel to serve as an expert witness or as
18 a consultant in this action, (2) is not a past or current employee of a Party or of a Party’s
19 competitor, and (3) at the time of retention, is not anticipated to become an employee of a Party or
20 of a Party’s competitor.

21 2.7 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or
22 Items: extremely sensitive “Confidential Information or Items,” disclosure of which to another
23 Party or Non-Party would create a substantial risk of serious harm that could not be avoided by less
24 restrictive means.

25 2.8 House Counsel: attorneys who are employees of a party to this action. House
26 Counsel does not include Outside Counsel of Record or any other outside counsel.

27 2.9 Non-Party: any natural person, partnership, corporation, association, or other legal
28 entity not named as a Party to this action.

1 2.10 Outside Counsel of Record: attorneys who are not employees of a party to this
2 action but are retained to represent or advise a party to this action and have appeared in this action
3 on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.

4 2.11 Party: any party to this action, including all of its officers, directors, employees,
5 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

6 2.12 Producing Party: a Party or Non-Party that produces Disclosure or Discovery
7 Material in this action.

8 2.13 Professional Vendors: persons or entities that provide litigation support services
9 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing,
10 storing, or retrieving data in any form or medium) and their employees and subcontractors.

11 2.14 Protected Material: any Disclosure or Discovery Material that is designated as
12 “CONFIDENTIAL,” or as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

13 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material from a
14 Producing Party.

15 3. SCOPE

16 The protections conferred by this Stipulation and Order cover not only Protected Material
17 (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all
18 copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony,
19 conversations, or presentations by Parties or their Counsel that might reveal Protected Material.
20 However, the protections conferred by this Stipulation and Order do not cover the following
21 information: (a) any information that is in the public domain at the time of disclosure to a
22 Receiving Party or becomes part of the public domain after its disclosure to a Receiving Party as a
23 result of publication not involving a violation of this Order, including
24 becoming part of the public record through trial or otherwise; and (b) any information known to the
25 Receiving Party prior to the disclosure or obtained by the Receiving Party after the disclosure from
26 a source who obtained the information lawfully and under no obligation of confidentiality to the
27 Designating Party. Any use of Protected Material at trial shall be governed by a separate agreement
28 or order.

1 4. DURATION

2 Even after final disposition of this litigation, the confidentiality obligations imposed by this
3 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order
4 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and
5 defenses in this action, with or without prejudice; and (2) final judgment herein after the
6 completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,
7 including the time limits for filing any motions or applications for extension of time pursuant to
8 applicable law.

9 5. DESIGNATING PROTECTED MATERIAL

10 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party or
11 Non-Party that designates information or items for protection under this Order must take care to
12 limit any such designation to specific material that qualifies under the appropriate standards. To the
13 extent it is practical to do so, the Designating Party must designate for protection only those parts
14 of material, documents, items, or oral or written communications that qualify – so that other
15 portions of the material, documents, items, or communications for which protection is not
16 warranted are not swept unjustifiably within the ambit of this Order.

17 Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown
18 to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily
19 encumber or retard the case development process or to impose unnecessary expenses and burdens
20 on other parties) expose the Designating Party to sanctions.

21 If it comes to a Designating Party's attention that information or items that it designated for
22 protection do not qualify for protection at all or do not qualify for the level of protection initially
23 asserted, that Designating Party must promptly notify all other parties that it is withdrawing the
24 mistaken designation.

25 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order
26 (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered,
27 Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so
28 designated before the material is disclosed or produced.

1 Designation in conformity with this Order requires:

2 (a) for information in documentary form (e.g., paper or electronic documents, but
3 excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing Party
4 affix the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
5 ONLY” to each page that contains protected material. If only a portion or portions of the material
6 on a page qualifies for protection, the Producing Party also must clearly identify the protected
7 portion(s) (e.g., by making appropriate markings in the margins) and must specify, for each
8 portion, the level of protection being asserted.

9 A Party or Non-Party that makes original documents or materials available for inspection
10 need not designate them for protection until after the inspecting Party has indicated which material
11 it would like copied and produced. During the inspection and before the designation, all of the
12 material made available for inspection shall be deemed “HIGHLY CONFIDENTIAL –
13 ATTORNEYS’ EYES ONLY.” After the inspecting Party has identified the documents it wants
14 copied and produced, the Producing Party must determine which documents, or portions thereof,
15 qualify for protection under this Order. Then, before producing the specified documents, the
16 Producing Party must affix the appropriate legend (“CONFIDENTIAL” or “HIGHLY
17 CONFIDENTIAL – ATTORNEYS’ EYES ONLY”) to each page that contains Protected Material.
18 If only a portion or portions of the material on a page qualifies for protection, the Producing Party
19 also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the
20 margins) and must specify, for each portion, the level of protection being asserted.

21 (b) for testimony given in deposition or in other pretrial or trial proceedings, that the
22 Designating Party identify on the record, before the close of the deposition, hearing, or other
23 proceeding, all protected testimony and specify the level of protection being asserted. The
24 Designating Party shall also have a right, up to 30 days after the close of the deposition, hearing, or
25 other proceeding, to identify the specific portions of the testimony as to which protection is sought
26 and to specify the level of protection being asserted. Only those portions of the testimony that are
27 appropriately designated for protection within the 30 days shall be covered by the provisions of this
28 Stipulated Protective Order. Alternatively, a Designating Party may specify, at the deposition or up

1 to 30 days afterwards, that the entire transcript shall be treated as “CONFIDENTIAL” or
2 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

3 Parties shall give the other parties notice if they reasonably expect a deposition, hearing or
4 other proceeding to include Protected Material so that the other parties can ensure that only
5 authorized individuals who have signed the “Acknowledgment and Agreement to Be Bound”
6 (Exhibit A) are present at those proceedings. The use of a document as an exhibit at a deposition
7 shall not in any way affect its designation as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL
8 – ATTORNEYS’ EYES ONLY.”

9 Transcripts containing Protected Material shall have an obvious legend on the title page that
10 the transcript contains Protected Material, and the title page shall be followed by a list of all pages
11 (including line numbers as appropriate) that have been designated as Protected Material and the
12 level of protection being asserted by the Designating Party. The Designating Party shall inform the
13 court reporter of these requirements. Any transcript that is prepared before the expiration of a 30-
14 day period for designation shall be treated during that period as if it had been designated “HIGHLY
15 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” in its entirety unless otherwise agreed. After
16 the expiration of that period, the transcript shall be treated only as actually designated.

17 (c) for information produced in some form other than documentary and for any
18 other tangible items, that the Producing Party affix in a prominent place on the exterior of the
19 container or containers in which the information or item is stored the legend “CONFIDENTIAL”
20 or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”. If only a portion or portions of
21 the information or item warrant protection, the Producing Party, to the extent practicable, shall
22 identify the protected portion(s) and specify the level of protection being asserted.

23 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
24 designate qualified information or items does not, standing alone, waive the Designating Party’s
25 right to secure protection under this Order for such material. Upon timely correction of a
26 designation, the Receiving Party must make reasonable efforts to assure that the material is treated
27 in accordance with the provisions of this Order.

28

1 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

2 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of
3 confidentiality at any time. Unless a prompt challenge to a Designating Party's confidentiality
4 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic
5 burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to
6 challenge a confidentiality designation by electing not to mount a challenge promptly after the
7 original designation is disclosed.

8 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process
9 by providing written notice of each designation it is challenging and describing the basis for each
10 challenge. To avoid ambiguity as to whether a challenge has been made, the written notice must
11 recite that the challenge to confidentiality is being made in accordance with this specific paragraph
12 of the Protective Order. The parties shall attempt to resolve each challenge in good faith and must
13 begin the process by conferring directly (in voice to voice dialogue; other forms of communication
14 are not sufficient) within 14 days of the date of service of notice. In conferring, the Challenging
15 Party must explain the basis for its belief that the confidentiality designation was not proper and
16 must give the Designating Party an opportunity to review the designated material, to reconsider the
17 circumstances, and, if no change in designation is offered, to explain the basis for the chosen
18 designation. A Challenging Party may proceed to the next stage of the challenge process only if it
19 has engaged in this meet and confer process first or establishes that the Designating Party is
20 unwilling to participate in the meet and confer process in a timely manner.

21 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court
22 intervention, the Challenging Party may, if there is good cause for doing so, at any time file and
23 serve a motion under Civil Local Rule 7 (and in compliance with Civil Local Rule 79-5, if
24 applicable) for a ruling that the Discovery Material in question is not entitled to the status and
25 protection of the Producing Party's designation. Each such motion must be accompanied by a
26 competent declaration affirming that the movant has complied with the meet and confer
27 requirements imposed in the preceding paragraph.

28 The burden of persuasion in any such challenge proceeding shall be on the Designating

1 Party. Frivolous challenges and those made for an improper purpose (e.g., to harass or impose
2 unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions.
3 All parties shall continue to afford the material in question the level of protection to which it is
4 entitled under the Producing Party's designation until the court rules on the challenge.

5 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

6 **7.1 Basic Principles.** A Receiving Party may use Protected Material that is disclosed or
7 produced by another Party or by a Non-Party in connection with this case only for prosecuting,
8 defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to
9 the categories of persons and under the conditions described in this Order. When the litigation has
10 been terminated, a Receiving Party must comply with the provisions of section 13 below (FINAL
11 DISPOSITION).

12 Protected Material must be stored and maintained by a Receiving Party at a location and in
13 a secure manner that ensures that access is limited to the persons authorized under this Order.

14 **7.2 Disclosure of “CONFIDENTIAL” Information or Items.** Unless otherwise ordered
15 by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any
16 information or item designated “CONFIDENTIAL” only to:

17 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as
18 employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the
19 information for this litigation and who have signed the “Acknowledgment and Agreement to Be
20 Bound” that is attached hereto as Exhibit A;

21 (b) the officers, directors, and employees (including House Counsel) of the
22 Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed
23 the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

24 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is
25 reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement
26 to Be Bound” (Exhibit A);

27 (d) the court and its personnel;

28 (e) court reporters and their staff, professional jury or trial consultants, and

1 Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have
2 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

3 (f) during their depositions, witnesses in the action to whom disclosure is reasonably
4 necessary and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A),
5 unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed
6 deposition testimony or exhibits to depositions that reveal Protected Material must be separately
7 bound by the court reporter and may not be disclosed to anyone except as permitted under this
8 Stipulated Protective Order.

9 (g) the author or recipient of a document containing the information or a custodian
10 or other person who otherwise possessed or knew the information.

11 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”

12 Information or Items. Unless otherwise ordered by the court or permitted in writing by the
13 Designating Party, a Receiving Party may disclose any information or item designated “HIGHLY
14 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to:

15 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as
16 employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the
17 information for this litigation and who have signed the “Acknowledgment and Agreement to Be
18 Bound” that is attached hereto as Exhibit A;

19 (b) Experts of the Receiving Party (1) to whom disclosure is reasonably necessary
20 for this litigation, (2) who have signed the “Acknowledgment and Agreement to Be Bound”
21 (Exhibit A), and (3) as to whom the procedures set forth in paragraph 7.4(a), below, have been
22 followed;

23 (c) the court and its personnel;

24 (d) court reporters and their staff, professional jury or trial consultants, mock jurors,
25 and Professional Vendors to whom disclosure is reasonably necessary for this litigation and who
26 have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A); and

27 (e) the author or recipient of a document containing the information or a custodian
28 or other person who otherwise possessed or knew the information.

1 7.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY
 2 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information to Experts.

3 (a) Unless otherwise ordered by the court or agreed to in writing by the Designating
 4 Party, a Party that seeks to disclose to an Expert (as defined in this Order) any information or item
 5 that has been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” pursuant
 6 to paragraph 7.3(b) first must make a written request to the Designating Party that (1) identifies the
 7 general categories of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information
 8 that the Receiving Party seeks permission to disclose to the Expert, (2) sets forth the full name of
 9 the Expert and the city and state of his or her primary residence, (3) attaches a copy of the Expert’s
 10 current resume, (4) identifies the Expert’s current employer(s), (5) identifies each person or entity
 11 from whom the Expert has received compensation or funding for work in his or her areas of
 12 expertise or to whom the expert has provided professional services, including in connection with a
 13 litigation, at any time during the preceding five years, and (6) identifies (by name and number of
 14 the case, filing date, and location of court) any litigation in connection with which the Expert has
 15 offered expert testimony, including through a declaration, report, or testimony at a deposition or
 16 trial, during the preceding five years.

17 (b) A Party that makes a request and provides the information specified in the
 18 preceding respective paragraphs may disclose the subject Protected Material to the identified
 19 Expert unless, within 14 days of delivering the request, the Party receives a written objection from
 20 the Designating Party. Any such objection must set forth in detail the grounds on which it is based.

21 (c) A Party that receives a timely written objection must meet and confer with the
 22 Designating Party (through direct voice to voice dialogue) to try to resolve the matter by agreement
 23 within seven days of the written objection. If no agreement is reached, the Party seeking to make
 24 the disclosure to the Expert may file a motion as provided in Civil Local Rule 7 (and in compliance
 25 with Civil Local Rule 79-5, if applicable) seeking permission from the court to do so. Any such
 26 motion must describe the circumstances with specificity, set forth in detail the reasons why the
 27 disclosure to the Expert is reasonably necessary, assess the risk of harm that the disclosure would
 28 entail, and suggest any additional means that could be used to reduce that risk. In addition, any

1 such motion must be accompanied by a competent declaration describing the parties' efforts to
2 resolve the matter by agreement (i.e., the extent and the content of the meet and confer discussions)
3 and setting forth the reasons advanced by the Designating Party for its refusal to approve the
4 disclosure.

5 In any such proceeding, the Party opposing disclosure to the Expert shall bear the burden of
6 proving that the risk of harm that the disclosure would entail (under the safeguards proposed)
7 outweighs the Receiving Party's need to disclose the Protected Material to its Expert.

8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
9 LITIGATION

10 If a Party is served with a subpoena or a court order issued in other litigation that
11 compels disclosure of any information or items designated in this action as "CONFIDENTIAL" or
12 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" that Party must:

13 (a) promptly notify in writing the Designating Party. Such notification shall include
14 a copy of the subpoena or court order;

15 (b) promptly notify in writing the party who caused the subpoena or order to issue in
16 the other litigation that some or all of the material covered by the subpoena or order is subject to
17 this Protective Order. Such notification shall include a copy of this Stipulated Protective Order; and

18 (c) cooperate with respect to all reasonable procedures sought to be pursued by the
19 Designating Party whose Protected Material may be affected.

20 If the Designating Party timely seeks a protective order, the Party served with the
21 subpoena or court order shall not produce any information designated in this action as
22 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" before a
23 determination by the court from which the subpoena or order issued, unless the Party has obtained
24 the Designating Party's permission. The Designating Party shall bear the burden and expense of
25 seeking protection in that court of its confidential material – and nothing in these provisions should
26 be construed as authorizing or encouraging a Receiving Party in this action to disobey a lawful
27 directive from another court.

28

1 9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS
 2 LITIGATION

3 (a) The terms of this Order are applicable to information produced by a Non-
 4 Party in this action and designated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL –
 5 ATTORNEYS' EYES ONLY". Such information produced by Non-Parties in connection with this
 6 litigation is protected by the remedies and relief provided by this Order. Nothing in these
 7 provisions should be construed as prohibiting a Non-Party from seeking additional protections.

8 (b) In the event that a Party is required, by a valid discovery request, to produce
 9 a Non-Party's confidential information in its possession, and the Party is subject to an agreement
 10 with the Non-Party not to produce the Non-Party's confidential information, then the Party shall:

11 1. promptly notify in writing the Requesting Party and the Non-Party that some
 12 or all of the information requested is subject to a confidentiality agreement with a Non-Party;

13 2. promptly provide the Non-Party with a copy of the Stipulated Protective
 14 Order in this litigation, the relevant discovery request(s), and a reasonably specific description of
 15 the information requested; and

16 3. make the information requested available for inspection by the Non-Party.

17 (c) If the Non-Party fails to object or seek a protective order from this court
 18 within 14 days of receiving the notice and accompanying information, the Receiving Party may
 19 produce the Non-Party's confidential information responsive to the discovery request. If the Non-
 20 Party timely seeks a protective order, the Receiving Party shall not produce any information in its
 21 possession or control that is subject to the confidentiality agreement with the Non-Party before a
 22 determination by the court. Absent a court order to the contrary, the Non-Party shall bear the
 23 burden and expense of seeking protection in this court of its Protected Material.

24 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

25 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
 26 Protected Material to any person or in any circumstance not authorized under this Stipulated
 27 Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party
 28 of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the
 29 Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made

1 of all the terms of this Order, and (d) request such person or persons to execute the
2 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

3 11. **INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED**
4 **MATERIAL**

5 (a) The inadvertent production by a Party of Discovery Material subject to a
6 claim of attorney-client privilege, work-product protection, or any other applicable privilege or
7 protection, despite the Producing Party’s reasonable efforts to prescreen such Discovery Material
8 prior to production, will not waive the applicable privilege and/or protection if a request for return
9 of such inadvertently produced Discovery Material is made promptly after the Producing Party
10 learns of its inadvertent production.

11 (b) When a Producing Party gives notice to Receiving Parties that certain
12 inadvertently produced material is subject to a claim of privilege or other protection, each
13 Receiving Party shall promptly return such Protected Material or Discovery Material and all copies
14 to the Producing Party, except for any pages containing privileged markings by the Receiving Party
15 which shall instead be destroyed and certified as such by the Receiving Party to the Producing
16 Party. This provision is not intended to modify whatever procedure may be established in an e-
17 discovery order that provides for production without prior privilege review. Pursuant to Federal
18 Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of
19 disclosure of a communication or information covered by the attorney-client privilege or work
20 product protection, the parties may incorporate their agreement in the stipulated protective order
21 submitted to the court.

22 (c) Nothing herein shall prevent the Receiving Party from preparing a record for
23 its own use containing the date, author, addresses, and topic of the inadvertently produced
24 Discovery Material and such other information as is reasonably necessary to identify the Discovery
25 Material and describe its nature to the Court in any motion to compel production of the Discovery
26 Material.

27 12. **MISCELLANEOUS**

28 12.1 **Right to Further Relief.** Nothing in this Order abridges the right of any person to

1 seek its modification by the court in the future.

2 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order
3 no Party waives any right it otherwise would have to object to disclosing or producing any
4 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no
5 Party waives any right to object on any ground to use in evidence of any of the material covered by
6 this Protective Order.

7 12.3 Export Control. Protected Material that is designated by a Designating Party that
8 resides in the United States may be additionally designated as “Subject to Export Control,” if the
9 Designating Party reasonably believes that the Protected Material may be subject to any United
10 States export control, including any applicable law or regulation. Such designations shall be made
11 in accordance with the protocol for designating Disclosure or Discovery Material set forth in
12 Section 5. Protected Material that is additionally designated as “Subject to Export Control” must be
13 stored and maintained by a Receiving Party at a location in the United States and in a secure
14 manner that ensures that access is limited to the persons authorized under this Order. To ensure
15 compliance with applicable United States Export Administration Regulations, Protected Material
16 that is designated as “Subject to Export Control” may not be exported outside the United States or
17 released to any foreign national (even if within the United States).

18 12.4 Filing Protected Material. Without written permission from the Designating Party or
19 a court order secured after appropriate notice to all interested persons, a Party may not file in the
20 public record in this action any Protected Material. A Party that seeks to file under seal any
21 Protected Material must comply with Civil Local Rule 79-5. Protected Material may only be filed
22 under seal pursuant to a court order authorizing the sealing of the specific Protected Material at
23 issue. Pursuant to Civil Local Rule 79-5, a sealing order will issue only upon a request establishing
24 that the Protected Material at issue is privileged, protectable as a trade secret, or otherwise entitled
25 to protection under the law. If a Receiving Party’s request to file Protected Material under seal
26 pursuant to Civil Local Rule 79-5(e) is denied by the court, then the Receiving Party may file the
27 Protected Material in the public record pursuant to Civil Local Rule 79-5(e)(2) unless otherwise
28 instructed by the court.

13. FINAL DISPOSITION

Within 60 days after the final disposition of this action, as defined in section 4, each Receiving Party must return all Protected Material to the Producing Party or destroy such material. As used in this subdivision, “all Protected Material” includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60-day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 4 (DURATION).

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: 10/26/2023

/s/ William D. Dresser

Attorney for Plaintiffs

DATED: 10/26/2023

/s/ Maxwell V. Pritt

Attorney for Defendant Eisenmann Corporation

DATED: 10/26/2023

/s/ Aaron D. Langberg

Attorney for Defendant Tesla, Inc.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: _____

Hon. Beth Labson Freeman
United States District Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address], declare under penalty of perjury that I have read
in its entirety and understand the Stipulated Protective Order that was issued by the United States
District Court for the Northern District of California on _____ [date] in the case of *Maslic, et al.*
v. ISM Vuzem d.o.o., et al., Case No. 5:21-cv-02556-BLF. I agree to comply with and to be bound
by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure
to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly
promise that I will not disclose in any manner any information or item that is subject to this
Stipulated Protective Order to any person or entity except in strict compliance with the provisions
of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Northern District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

16 I hereby appoint _____ [print or type full name] of
17 _____ [print or type full address and telephone number]
18 as my California agent for service of process in connection with this action or any proceedings
19 related to enforcement of this Stipulated Protective Order.

20 Date:

21 || City and State where sworn and signed:

22 Printed name: _____
22 [printed name]

24 Signature: _____
[signature]